IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

–

WRIT PETITION NO : 20529 of 2004

AND

WRIT PETITION NO : 19614 of 2004

WRIT PETITION NO : 20529 of 2004

Between:

K.Venkatram Reddy, S/o.Balreddy,
R/o.8-6-92/C, Near Petrol Bunk,
Padmavathi Colony, Mahabubnagar.

..... PETITIONER

AND

1 The Govt. of Andhra Pradesh,

rep.by its Principal Secretary, Home (General-B)Dept.,
Secretariat Buildings, Hyderabad.
2 The District Collector & District Magistrate -cum-Competent Authority
under AP Protection of Depositors of Financial Establishments Act,
Mahabubnagar.
3 M/s. Vahini Finance & Chits (P) Ltd., Mahabubnagar,

rep.by its Managing Director, P.IndrasenaReddy

S/o.Raghava Reddy, R/o.Flat No.201, Swathi Apartments,
Sri Bhagiratha Colony, Mahabubnagar.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, more particularly a writ in the nature of Mandamus, declaring the action of the respondents in not taking any action pursuant to the settlement arrived at by the creditors of the 3rd respondent company to pay the amounts of the depositors from out of the funds of the 3rd respondent freezed by the 2nd respondent pursuant to the directions of the 1st respondent as being illegal, violative of Articles 21 and 300-A of the Constitution of India and consequently direct the 2nd respondent to pay back the amounts due on a pro-rata basis as per the understanding of the petitioner and the 3rd respondent forthwith.

Counsel for the Petitioner:MR.SHAFATH AHMED KHAN

Counsel for the Respondent No.1: GP FOR HOME

Counsel for the Respondents 2 and 3: ____

WRIT PETITION NO : 19614 of 2004

Between:

M/s.Vahini Finance & Chits (p)Ltd., Mahabubnagar,

rep.by its Managing Director, P.Indrasena Reddy,
S/o.Raghava Reddy, R/o.flat No.201,
Swathi Apartments, Sri Bhagiratha Colony, Mahabobnagar.

..... PETITIONER

AND

1 The Government of Andhra Pradesh,

rep.by its Prl.Secretary Home (General -B) Department,
Secretariat Buildings, Hyderabad.
2 The District Collector & District, Magistrate-cum-Competent Authority under AP Protection of Depositors of Financial Establishments Act, Mahabubnagar.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, more particularly a writ in the nature of Mandamus, declaring the action of the respondents in not taking any action pursuant to the representation/requests made by the petitioner-company to settle the accounts of the depositors from out of the funds that were freezed by the 2nd respondent pursuant to the directions of the 1st respondent as being illegal, violative of Articles 14 and 19(1) of the Constitution of India and consequently direct the respondents to initiate action pursuant to the understanding of the petitioner company and the depositors forthwith,

Counsel for the Petitioner:MR.M.A.ASHFAQ MOHIUDDIN

Counsel for the Respondents: GP FOR HOME

The Court at the stage of admission made the following

COMMON ORDER:

The subject matter of these two writ petitions is similar and common. Hence, they are disposed of through a common order. The petitioner in W.P.19614 of 2004 is a finance and chit fund company and the petitioner in W.P.No.20529 of 2004 claims to be the President of the Association of Depositors in the said finance and chit fund company.

On the basis of certain allegations, the proceedings under the provisions of the A.P. Protection of Depositors of Financial Establishments Act, 1999(for short 'the Act') were initiated against the chit fund company. Several items of property are said to have been seized. Now the matter is pending before the learned District Judge, Mahabubnagar district, designated as the Special Court for the purpose of this Act, in Crl.M.P.No.656 of 2003.

In both these writ petitions, it is alleged that the chit fund company and the depositors have entered into a settlement, where under it was decided to undertake pro-rata disbursement of a sum of Rs.1.12 lacs said to be deposited in two banks. The petitioners allege that the District Collector and Magistrate-cum-competent authority under the Act is not agreeing for the settlement and meanwhile the depositors and the chit fund company is put to hardship.

On behalf of the District Collector and Magistrate, a counter-affidavit is filed narrating the facts relevant to the case. It is stated that the proceedings are pending before the Special Court and necessary steps would be taken based on

the representation of the parties in accordance with the relevant provisions of law, as early as possible.

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies.

It is one of the rare cases where the financial institution as well as the depositors have come to a settlement distribution of assets. In fact, the object under the Act is to ensure such distribution. The only precaution that needs to be taken is that all the creditors should be folded into the scheme. Further, once the matter is before the Special Court, necessary orders are required to be passed therein. Sub-section (4) of Section 6 of the Act empowers the competent authority to present such a claim and mandates that whenever it is presented the Special Court shall take the same into account. It is represented by the learned counsel for the parties that a meeting has been convened by the competent authority and no final decision has been taken as yet.

Admittedly, the matter is now pending before the Special Court. The Act empowers the competent authority to take necessary measures with an object to ensure proper, proportionate and equitable distribution of the assets of the financial institution to the depositors. There should not be any difficulty when the financial institution as well as the depositors have come to a settlement.

Hence, both the writ petition are disposed of directing the District Collector and competent authority to take necessary steps as provided for under sub-section (4) of Section 6 of the Act within a period of four weeks from the date of receipt of a copy of this order and to submit necessary proposals before the Special Court. As and when such proposal is presented to it, the Special Court shall examine the same and pass appropriate orders within four weeks thereafter. No order as to costs.

20.12.2004

Note:

Issue CC in three days.

(BO)

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To

1 The Principal Secretary, Home (General-B) Department,

The Government of Andhra Pradesh,

Secretariat Buildings, Hyderabad.
2 The District Collector & District Magistrate -cum-Competent Authority under AP Protection of Depositors of Financial Establishments Act, Mahabubnagar.
3 Two CCs to the Government Pleader for Home, A.P.High Court Buildings, Hyderabad (OUT).

4 Two CD copies.